

*South Dakota*

# SECTION 504/ADA

*Training of  
Trainers Materials*

<http://www.state.sd.us/deca>  
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**Utah State**  
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## SECTION 504/ADA INSERVICE PRESENTATION

The purpose for these materials is to provide the school Section 504/ADA Coordinator with an outline to assist in conducting training regarding Section 504/ADA to school teachers, administrators, and other staff.

### PRESENTATION

This is a suggested outline; please feel free to modify the content, add other resources, and build in group activities and individual assignments. Each individual presenter will have his/her own unique style of presentation. Please reference the South Dakota Section 504/ADA guidelines to support the inservice presentation. Overheads are represented by the following symbol \* and are numbered in sequence. The page numbers to the right of each overhead correspond to content material in the State guidelines.

### INTRODUCTION

1. Introduce yourself and emphasize that you are on the school district's Section 504/ADA implementation team.
2. Review the South Dakota Section 504/ADA Guidelines for Educators. Just give a brief overview of the contents.
3. The outcomes for the inservice training are as follows:
  - \* Give an overview of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA);
  - \* Illustrate the differences and similarities between Section 504/ADA and special education;
  - \* Give examples of individuals who may be eligible under Section 504/ADA;
  - \* Illustrate accommodations and services effective for students with disabilities;
  - \* Review school procedural responsibilities under Section 504/ADA; and
  - \* Illustrate that the requirements under Section 504 fulfill many obligations required by the Americans with Disabilities Act.
4. Give the Section 504 pre-test Quiz. Review answers at the end of the session.

## OVERVIEW

*This section of the presentation will give the participants a brief overview of the Section 504/ADA law.*

**TOO MUCH DETAIL SHOULD BE AVOIDED.**

Teachers and administrators just want the essence. The key issue is that Section 504/ADA is a civil rights law that prohibits discrimination against individuals with disabilities.

## ACTIVITY PAGES 7–11

Review the key terms and acronyms common to Section 504 with the participants.

### ✱ 1 STATUTE

PAGE 5, APPENDIX A

Section 504/ADA is a civil rights statute that prohibits discrimination. Like the sister statutes of Title VI (race) and Title IX (gender), Section 504/ADA prohibits discrimination based solely on disability.

Special education regulations and Section 504 of the Rehabilitation Act were implemented the same year — 1973.

### ✱ 2 CIVIL RIGHTS

PAGES 5–6

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Section 504 is often referred to as the first civil rights act for individuals with disabilities. Section 504 applies to students, parents, employees, and other individuals with disabilities.

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*It's too bad we have to legislate civil rights for individuals with disabilities.*

### ✱ 3 SECTION 504

PAGES 5, 12–17, APPENDIX A

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Subpart A — General Provisions

Subpart B — Employment Practices

Subpart C — Accessibility

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Subpart D — Preschool, Elementary, & Secondary Education

Subpart E — Postsecondary Education

Subpart F — Health, Welfare, & Social Services

Subpart G — Procedures

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*Section 504 applies to students, employees, and parents. This presentation will be primarily focused on the student and Subparts D and E of Section 504.*

#### ✳ 4 CIRCLE/IDEA/504/ADA

*When using this overhead, illustrate that special education is student focused, 504 is school focused, and ADA community focused. We now have a birth to death mandate for individuals with disabilities.*

#### ✳ 5 GENERAL EDUCATION

PAGE 14

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Section 504/ADA should be a general education management responsibility.

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*Why should Section 504/ADA administration be delegated to a general education?*

#### ✳ 6 SECTION 504/ADA HAS BEEN AROUND SINCE 1973. PAGE 5

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Section 504 gets little respect because funding is not provided by the State or federal government. Cost for services are provided by the local school district.

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*Mention that most expenses for Section 504/ADA services require little or no money. Students eligible for Section 504 accommodations should be in the general education classroom.*

#### ✳ 7 ROLES OF SCHOOL PERSONNEL

PAGE 15

*This chart will show that every member of a school staff has a role and responsibilities in the Section 504/ADA process.*

## DEFINITION OF DISABILITY

The definition of a disability under Section 504 is much broader than special education. During this session, review the three-prong definition and give illustrations for each prong.

### 1ST PRONG

#### \* 8 SECTION 504/ADA

PAGE 28

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##### 504 Eligibility

The student has a physical or mental impairment that substantially limits one or more of a person's major life activities.

Walking

Seeing

Working

Breathing

Hearing

Caring for one's self

Learning

Speaking

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*This determination must be based on an individual evaluation and made by a team of people knowledgeable of the student and about the disability.*

#### \* 9 EXAMPLES OF STUDENTS WITH DISABILITIES WHO

MIGHT BE ELIGIBLE UNDER SECTION 504/ADA      PAGES 39–53

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HIV / AIDS

Conduct Disorder

Tuberculosis

Temporary Disability

Arthritis

ADD / ADHD

Asthma

Drug and Alcohol

Allergies

Migraine Headache

Diabetes

Tourette Syndrome

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Obesity	Traumatic Brain Injury (TBI)
Epilepsy	Cerebral Palsy
Heart Disease	Cancer
Former Special Education	Chronic Fatigue Syndrome Qualified Students

## ✳ 10 ILLUSTRATION

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A person with a minor vision impairment, such as 20/40 vision, does not have a substantial impairment of the major life activity of seeing.

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## ✳ 11 ILLUSTRATION

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A person who is deaf is substantially limited in the major life activity of hearing. A person with a minor hearing impairment, on the other hand, may not be substantially limited.

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## 2ND PRONG

## ✳ 12 DEFINITION/ELIGIBILITY

PAGE 28

HAS A RECORD OF SUCH AN IMPAIRMENT.

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Examples of individuals who have a record of an impairment are persons who have histories of mental or emotional illness, learning disability, asthma, heart disease, cancer, etc. and students who have received special education.

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## 3RD PRONG

### ✱ 13 DEFINITION/ELIGIBILITY

PAGE 28

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Is regarded as having such an impairment.

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### ✱ 14 RYAN WHITE —

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HIV infected — student sued an Indiana School District under Section 504. Ryan was able to function in the school setting, but was perceived as being disabled.

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### ✱ 15 ILLUSTRATION

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Bobbie, a three-year-old child born with a prominent facial disfigurement, has been refused admittance to a county-run day care program on the grounds that his presence in the program might upset the other children.

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### ✱ 16 ILLUSTRATION

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Anna, an individual with mild diabetes controlled by medication, is barred by the staff from participation in certain sports because of her diabetes. Even though Anna does not actually have an impairment that substantially limits a major life activity, she is protected under Section 504/ ADA because she is treated as though she does.

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### ✱ 17 DEFINITION ISSUE/OCR POLICY LETTER

PAGE 28, APPENDIX C

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NOTE: The second and third prongs of the definition referring to individuals with a “record of” or regarded as “having an impairment” are relevant only when some



negative action is taken based on the perception or record. "This cannot be the basis which the requirement for a free appropriate public education (FAPE) is triggered." (OCR Policy Memorandum, August 3, 1992.)

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## ✳ 18 ELIGIBILITY

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There are attitudinal barriers and architectural barriers that affect the educational placements of students.

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## ✳ 19 EXCLUSIONS

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\* Infectious disease if it poses a risk to others

\* Drug and alcohol abuse

\* Slow learners without disabilities

\* Sexual disorders

\*Pregnancy

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## ✳ 20 ELIGIBILITY

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Every person eligible for Section 504 will not necessarily be eligible for special education.

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## ✳ 21 ELIGIBILITY

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Every person eligible for special education is also protected under Section 504.

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## ACTIVITY

Have the group give some examples of the last two overheads. Make sure they understand why the definition of eligibility under Section 504/ ADA takes into consideration a much broader list of disabilities.

## ACCOMMODATIONS/SERVICES

Often, eligible students with disabilities under Section 504/ADA only need minor accommodations to benefit from their educational experiences.

### ACTIVITY

Review the overhead listing eligible disabilities. Divide the participants into small groups and have them choose one disability on the list and brainstorm examples of making accommodations in their classroom. Bring the group back together and list as many examples as possible.

*Refer to the guidelines and discuss possible situations in which a student should be considered for Section 504/ADA. If your school has a Student Assistance process (prereferral), explain the importance of using that team to consider Section 504/ADA as a possible service option.*

## \* 22 ACCOMMODATIONS

PAGES 33–38

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Modifications made by classroom teacher(s) and other school staff to enable the students to benefit from their educational program. A plan should be developed outlining services and/or accommodations.

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## \* 23 ACCOMMODATIONS/SERVICES

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Effective and Equal

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Accommodations simply put the individual with a disability at a more equal level with those who do not have disabilities.

### ACTIVITY

Review the various examples of disabilities in the guidelines and have the group expand the list of possible accommodations.

## PLACEMENT PROCESS

PAGES 30–32

Section 504/ADA does not detail the extensive procedures for identification, evaluation, eligibility, and program placement that are required in special education. Generally, the procedures will be similar but require less paperwork and fewer meetings. Each student must be considered individually. Some situations will require a great amount of time and documentation while others will involve a minimal amount of time and paperwork. The next set of overheads represents a suggested placement process; each school can develop a system that fits its particular needs. REMEMBER: There are certain procedural requirements that always need to be followed.

### ✱ 24 PARENT INVOLVEMENT

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The parents should be included in the 504 process whenever possible.

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### ✱ 25 DOCUMENTATION

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It is important to document evaluation results, eligibility determination, services, and placement issues regarding each individual.

DOCUMENTATION IS ALWAYS A BEST PRACTICE.

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## SUGGESTED SECTION 504 PROCESS

### ✱ 26 STUDENT ASSISTANCE TEAM

PAGE 31

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The Student Assistance Team (pre-referral) will provide support and suggestions to classroom teachers regarding any student experiencing academic or behavioral difficulties. If the strategies are unsuccessful, a referral for an evaluation could be made to Section 504/ADA or special education.

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## ✱ 27 REFERRAL

PAGE 31

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Referrals are accepted from parents, professional staff, students, and/or other staff members. The problem(s) and previous remedies are considered and reviewed.

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## ✱ 28 NOTIFICATION

PAGE 31

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The school notifies the parents or guardians, in writing, of the school's reason and intent to conduct an evaluation. The notice should include a description of the evaluation and procedural safeguards. Parental consent would be considered best practice for all Section 504/ADA evaluations.

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## ✱ 30 WRITTEN CONSENT/SECTION 504

PAGE 31

## ✱ 31 EVALUATION

PAGE 31

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The school must evaluate all students with disabilities before making an initial placement or any significant change in placement.

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## ✱ 32 SECTION 504/ADA COMMITTEE MEETING

PAGE 32

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A best practice is to use the Student Assistance Team as the Section 504/ADA Committee. Typical members would include the following:

- Parents
  - Students (when appropriate)
  - Teacher(s)
  - Principal
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—Other (as needed)

The committee will study and analyze the evaluation data to determine if the student has a mental or physical disability that substantially limits a major life activity and influences the student's educational program.

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## ✳ 33 ELIGIBILITY

PAGE 32

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If the student is eligible under Section 504/ADA, the team determines accommodations and/or services that will enable the student to benefit from his/her education. This can be documented on an individual Section 504 accommodation plan.

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## ✳ 34 SECTION 504 STUDENT ACCOMMODATION PLAN      APPENDIX B

### ACTIVITY

*Using overheads, have participants write an accommodation plan. Break into groups and revise their prior accommodations or write another plan.*

## ✳ 35 SERVICES

PAGE 32

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The following factors are considered by a team knowledgeable about the student and the disability:

- Evaluation results
  - Section 504/ADA eligibility
  - The student's unmet needs
  - Services and/or accommodations based on eligibility
  - Discuss and plan possible staff inservice.
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- Least Restrictive Environment (LRE)
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## ✳ 36 IMPLEMENTATION

PAGE 32

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The school staff makes the necessary accommodations to allow for the student's disability. Parents should be consulted and given opportunities for input. The accommodations and/or services are then implemented.

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## ✳ 37 REVIEW

PAGE 32

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Each student's accommodations and/or services are reviewed periodically. Best practice would be at least annually.

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## COMPARISON BETWEEN SECTION 504/ADA AND SPECIAL EDUCATION

There are many similarities and differences between Section 504/ADA and special education. As you present these overheads, have the group refer to the South Dakota guidelines, which have a schematic of the similarities and differences.

PAGES 58–65

## ✳ 38 COMPARISON —TYPE

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Section 504/ADA — Civil Rights Law

Special Education — Education Act

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## ✳ 39 COMPARISON— RESPONSIBILITY

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Section 504/ADA — General Education

Special Education — Special Education

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## ✱ 40 COMPARISON —ADMINISTRATOR

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Section 504/ ADA — Section 504/ ADA Coordinator

Special Education — Special Education Director

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*In most schools the Section 504/ADA Coordinator will be a general education administrator. Why?*

## ✱ 41 COMPARISON —FUNDING

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Section 504/ ADA — General Education (no special funding)

Special Education — State, Local, Federal Special Education Funding

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*Explain that most accommodations are inexpensive. Schools should have a Section 504/ADA budget line item.*

### ACTIVITY

Have the group discuss why there is no special funding for 504/ ADA. Answer: 504/ ADA is a constitutional right. Constitutional rights are guaranteed without funding. Have the group discuss why Section 504/ ADA is not part of the special education program. Answer: Section 504/ ADA is civil rights. Many individuals protected under Section 504/ ADA do not qualify under special education.

## ✱ 42 FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

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### IDEA:

- Requires FAPE be provided to only those protected students who, because of a disability, need special education or related services.
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- Defines FAPE as special education and related services delivered under an IEP, that meets State and federal standards. A student can receive related services under special education if the student is provided special education and needs related services to *benefit from special education*.
  - Requires a written IEP document with specific content and a required number of specific participants at the IEP meeting.
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## ✳ 43 FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

### SECTION 504/ADA

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- Requires that FAPE be provided to only those protected students who, because of a disability, need general education accommodations or special education and related services.
  - Defines FAPE as general or special education and related aids and services to meet the needs of the individual student.
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## ✳ 44 COMPARISON —FAPE

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Section 504/ADA — General education accommodations and/or special education and/or related services

Special Education — Must be eligible and need special education; then related services can be added if they are necessary for the student to benefit from special education.

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## ✳ 45 COMPARISON —ELIGIBILITY

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Section 504/ADA — Currently has a physical or mental disability that substantially limits a major life activity and impacts the student's education.

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Special Education — (1) must qualify under one of the 14 disability categories, (2) disability adversely affects educational performance, and (3) student needs special education (specially designed instruction).

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## ✱ 46 COMPARISON — ATTENTION DEFICIT DISORDER      APPENDIX C

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Section 504/ADA— Is eligible if the student has been diagnosed by a doctor and/or the disability substantially limits a major life activity.

Special Education— Must meet one of the categorical disabilities criteria in special education. Could be served under the categories of LD, OHI, ED, or TBI determined by the IEP team.

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*Have the group refer to the clarification memo for OCR/OSEP regarding eligibility of ADD/ADHD students for special education.*

## ✱ 47 COMPARISON – DRUG AND ALCOHOL

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Section 504/ADA — An individual who is not using drugs and/or alcohol and is undergoing treatment could be protected.

Special Education — Drug and alcohol use, by itself, does not qualify one for special education services.

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*An individual is not protected under Section 504/ADA if they are currently using drugs and/or alcohol.*

## ✱ 48 COMPARISON – SERVICE TOOL

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Section 504/ADA — Accommodation plan and/or services

Special Education — Individualized Education Program

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*The paperwork requirements of Section 504/ADA are much less than special education.*

## ✳ 49 COMPARISON—GRIEVANCE PROCEDURE PAGES 19–21

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Section 504/ADA— Requires a grievance procedure to deal with discrimination issues.

Special Education — Grievance procedure not required. A complaint can be filed with the State.

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*Even though a school has a grievance procedure, a parent could elect to go directly to the Office for Civil Rights with a complaint.*

## ✳ 50 COMPARISON—REVIEW OF PROGRAM

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Section 504/ADA Plan — Review periodically

Special Education IEP— Review at least annually

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## ✳ 51 COMPARISON ENFORCEMENT

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Section 504 — Office for Civil Rights (OCR)

Special Education — Office of Special Education Programs (OSEP)

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## ✳ 52 DISPUTE RESOLUTION UNDER SECTION 504/ADA

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A. Local Grievance (34 C.F.R. y 104.7 (b)).

B. Impartial Hearing (34 C.F.R. y 104.36)).

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If a state does not permit special education hearing officers to rule on Section 504/ADA issues, then schools must offer alternative hearing procedures. Section 504/ADA regulations do not specify timelines or impartiality requirements; therefore, OCR applies a standard of fundamental fairness and will be guided by IDEA case law and other decisions. OCR Policy letter, 18 IDELR 230 (OCR 1991).

C. Office for Civil Rights (OCR) Complaints

D. Judicial Actions

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## ✳ 53 OCR ENFORCEMENT

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Discrimination issues

Disability, race, gender, age

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## ✳ 54 OCR PRIORITIES

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Overrepresentation of minorities in special education

Proper evaluation of minority students

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## ✳ 55 OCR CONDUCTS FOUR MAJOR TYPES OF ACTIVITIES TO PREVENT

### DISCRIMINATION OF THE BASIS OF A DISABILITY:

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1. Technical Assistance: Is carried out directly by staff in the form of guidance to recipients and through contract to produce materials and information for interested recipients.
  2. Investigation and Resolution of Complaints: Investigation and resolution of Section 504/ADA complaints filed by individuals or organizations against specific recipients of federal funds is the major function of OCR.
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3. Compliance Reviews: Each regional office annually conducts compliance reviews in selected schools to identify potential problems and improve compliance at the local level.
  4. Data Collection: OCR collects large amounts of data and information from state and local education agencies through “101 and 102” surveys concerning the status of services for and placements of disabled and minority students.
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## ✱ 56 OCR ENFORCEMENT —2001

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- 93 percent of OCR time was spent on complaints.
  - 5,000 complaints were filed in 1996.
  - 53 percent of complaints were related to disability.
  - 47 compliance reviews were completed.
  - New complaint resolution manual was developed.
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*The regional office for South Dakota is located in Kansas City, Missouri. OCR also plays a proactive role in providing technical assistance to State and local agencies.*

## PROCEDURAL REQUIREMENTS      PAGES 18–27

This part of the presentation can be brief. Discuss the importance of knowing these requirements and explain that the Section 504/ ADA Coordinator will monitor and be available to answer questions throughout the school year regarding Section 504/ ADA procedures.

## ✱ 57 PROCEDURAL REQUIREMENTS OF SECTION 504/ADA

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1. Provide written assurance of nondiscrimination whenever the school receives federal money.    34 CFR 104.5(a)    Page 19
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2. Designate an employee to coordinate compliance with Section 504/ ADA. 34 CFR 104.7(a) Page 19

*Assign a 504/ADA Coordinator separate from the special education director*

3. Provide grievance procedures to resolve complaints of discrimination. 34 CFR 104.7(b) Page 19–23
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*Best Practice — Use mediation to resolve conflicts between parents and the school.*

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4. Provide ongoing notice of nondiscrimination to students, parents, employees, unions, and professional organizations. Notice must also specify the responsible employee designated to coordinate compliance. 34 CFR 104.8 Page 23
5. Identify and locate all Section 504/ ADA qualified students with disabilities in the school's geographic area who are not receiving a public education. 34 CFR 104.32(a) Page 24
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*Best Practice — Combine with the special education Child Find.*

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6. Annually notify persons with disabilities and their parents or guardians of the school's responsibility under Section 504/ ADA. 34 CFR 104.32(b) Page 25
7. Provide parents or guardians with procedural safeguards. 34 CFR 104.36 Page 26
- a. Notice of their rights. [A person] who has a mental or physical impairment that substantially limits one or more major life activities (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working).
  - b. Opportunity to review relevant records
  - c. Impartial hearing with opportunity for participation by parents or guardians and representation of counsel
  - d. Review procedure
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8. Self-evaluation is technically required only on a one-time basis, but it is advisable to review the evaluation on a periodic basis. Individuals with disabilities or their organizations should be involved in the self-evaluation. Page 27

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## ✱ 58 SECTION 504/ADA AND POSTSECONDARY OPPORTUNITIES

PAGES 16–17

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- Obligations apply to postsecondary programs that receive federal funding.
  - High school counselors should have knowledge of Section 504/ADA and provide that information to students with disabilities.
  - The last issue a special education multidisciplinary team should discuss when a student with disabilities graduates is Section 504/ADA eligibility.
  - Transition goals and objectives should include collaboration with postsecondary programs regarding Section 504/ADA accommodations.
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## CONCLUSION

This inservice training program has given an overview of Section 504/ADA and provided educators and administrators with a knowledge of school responsibilities. You have probably discovered that the school is already meeting many obligations by providing accommodations and/or services to students, parents, and employees. It is important to formalize the Section 504/ADA process to better serve eligible individuals with disabilities and provide a structure that will be necessary when questions are asked by parents and others or if the Office for Civil Rights is required to investigate a complaint.

